

# Powers of Attorney

## What is a Power of Attorney?

A Power of Attorney (POA) is a written instrument that allows you (the grantor) to authorize another person or institution (your agent or attorney-in-fact) to conduct certain business for you. It is one of the most powerful legal documents that you can give to another. There are two types of POA's: 1) General Power of Attorney (GPOA) and 2) Special Power of Attorney (SPOA) also known as a "Limited" POA.

A POA gives your agent authority to act on your behalf. Every act performed by your agent within the authority of the POA is legally binding upon you. Since a POA is such a powerful document give it only to a trustworthy person, limit the authority you grant whenever possible, limit the duration of the POA and only give a POA when necessary.

## General Power of Attorney (GPOA)

A GPOA gives the designated attorney-in-fact (agent) the legal authority to act on your behalf – to do anything that you could do. With a GPOA, your agent can (for example) rent or buy a house with your money, borrow money (a loan) that you must repay, sell your car or buy a car, sue someone for you, or remove funds from your bank account. Your agent can legally bind you.

A GPOA will not allow the agent to consent to medical/dental treatment for a child, medical treatment for you, for these services you will need a Special Power of Attorney (SPOA) or a form designated by the health care provider. It is up to each merchant/business/financial institution where the POA is presented, whether to accept a POA.

You are strongly advised to limit the power of attorney to the type that is necessary. If you need someone to perform only a specific task for you then you do not need a GPOA. Get a SPOA, one that will authorize your agent to perform only specific tasks. If you know of a specific reason you may need someone to use a POA, check with the merchant/business first to see what type of POA they will accept.

Limit the duration of your POA to no longer than necessary and never more than one (1) year. Do not set the expiration date for a longer period than that which will allow your agent to complete the task. Ensure you do not give the POA before the services are needed.

## Special Power of Attorney

The Special Power of Attorney is a document where you authorize someone to perform a specific act for you. One example is when you leave a state and want someone to sell your vehicle after you leave. The special power of attorney is more restricted than the General Power of Attorney but it can create problems too. Every act that you want done in your absence must be listed on the special power of attorney. The wording must be specific so that there is no doubt in anyone's mind as to what your intentions are.

Making a Special Power of Attorney (SPOA) is an important action with serious consequences. Your SPOA gives someone else the legal authority to act on your behalf. Remember to:

- Limit the power you give away to only that necessary.
- Limit the duration of your Power of Attorney to no longer than necessary and not to exceed one year. Don't set the expiration date longer than you will need your agent's services, and don't give the Power of Attorney before it will be needed.

- Make sure your agent is someone you trust. If you lose trust in your agent, talk with a legal assistance attorney about revoking your Power of Attorney.

Regardless of the type of power of attorney you need, careful thought needs to be given to the kind of power of attorney you wish to have prepared. Granting a power of attorney is an act that must be done freely, voluntarily and without any kind of undue influence or coercion. The person granting the Power of Attorney must possess the capacity necessary to make this decision. If a person is terminally ill and taking medications that may impair his or her ability to understand the document he or she is signing the Power of Attorney will not be given. When a person anticipates a long term hospital confinement, or when the person knows that he or she has a terminal illness, he or she should exercise caution and if a power of attorney needs to be given, he or she must grant this power before becoming hospitalized, or before the person becomes unable to make this decision. Taking certain medications may impair the grantor's ability to comprehend the consequences of giving a Power of Attorney, and on those circumstances a Power of Attorney should not be granted.

### **Revocation of a POA**

Make sure your agent is someone that you can trust. If you lose trust in your agent, talk with a Legal Assistance attorney about revoking your POA. Make sure you notify your agent that the POA has been revoked and notify third persons who have relied on the POA. Some jurisdictions require further action such as recording a revocation. Please contact a legal assistance attorney if you wish to revoke a POA to ensure that the revocation is done properly.

### **\*\*IMPORTANT INFORMATION ABOUT POA'S\*\***

- If you want to revoke, cancel, or end a Power of Attorney before it expires, you must sign a Revocation of Power of Attorney. You must give a copy of the revocation to any person who might have or will possibly deal with your agent.
- No one is ever legally required to accept a power of attorney (even a military power of attorney), regardless of the legality or validity of the power of attorney.
- In some cases, certain individuals and/or businesses will only accept a power of attorney fulfilling their specific individual standards and requirements, such as banks and other financial institutions. Many have their own form, so ask them. As a result, ensure this power of attorney will meet the specific standards of the individuals and/or businesses with whom your agent will do business.
- Your appointee or agent **MUST** have the ORIGINAL Power of Attorney, you should keep a copy for your records.